

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

DEAN PHILLIP HARRIS,

07-CV-806-ST

Plaintiff,

ORDER

v.

ESTATE OF DR. IAN ROBERT DUNCAN,

Defendant.

BROWN, Judge.

Magistrate Judge Janice M. Stewart issued Findings and Recommendation (#42) on January 22, 2009, in which she recommends this Court grant Defendant's Motion for Summary Judgment (#32) and dismiss this matter with prejudice. Plaintiff informed the Court that he did not receive a copy of the Findings and Recommendation. Accordingly, the Court provided Plaintiff with a copy of the Findings and Recommendation and granted Plaintiff an extension of time to March 9, 2009, to file Objections.

Plaintiff filed Objections. On March 23, 2009, Defendant advised the Court that it does not intend to file a Response to Plaintiff's Objections. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). See also *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9<sup>th</sup> Cir. 2003) (*en banc*); *United States v. Bernhardt*, 840 F.2d 1441, 1444 (9<sup>th</sup> Cir. 1988).

This Court has carefully considered Plaintiff's Objections and concludes they do not provide a basis to modify the Findings and Recommendation. The Magistrate Judge addressed Plaintiff's arguments that the statute of limitations period was tolled and that he was denied adequate medical care.

The Court has reviewed the pertinent portions of the record *de novo* and does not find any error in the Magistrate Judge's Findings and Recommendation.

#### CONCLUSION

The Court **ADOPTS** Magistrate Judge Stewart's Findings and Recommendation (#42). Accordingly, the Court **GRANTS** Defendant's

Motion for Summary Judgment (#32) and **DISMISSES** this matter **with prejudice**.

IT IS SO ORDERED.

DATED this 23<sup>rd</sup> day of March, 2009.

/s/ Anna J. Brown

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ANNA J. BROWN  
United States District Judge